

Presidential Power

Name of Student

Institutional Affiliation

7-1 Presidential Power

In 2020, the Supreme Court decided two significant cases involving President Donald Trump that centered on the limits of presidential power and accountability: *Trump v. Vance* and *Trump v. Mazars USA, LLP*.

Facts and Rulings

Trump v. Vance: The case addressed a subpoena from the Manhattan District Attorney for Trump's financial records for a criminal investigation. The Court ruled that the President does not have absolute immunity from state criminal subpoenas, asserting that the Constitution does not categorically preclude these subpoenas (*Trump v. Vance*, 2020).

Trump v. Mazars USA, LLP: The case concerned congressional subpoenas for Trump's financial records. The Court held that lower courts had not adequately considered the separation of powers concerns and outlined broad considerations for assessing congressional subpoenas involving the President (*Trump v. Mazars USA, LLP*, 2020).

Presidential Immunity from Prosecution

While in office: The decision in *Trump v. Vance* aligns with precedents such as *United States v. Nixon*, 418 U.S. 683 (1974), and *Clinton v. Jones*, 520 U.S. 681 (1997). These cases support the principle that the President is not above the law and does not enjoy absolute immunity from criminal investigation. For instance, in *Nixon*, the Supreme Court held that the President must comply with judicial subpoenas in the context of a criminal investigation, establishing that executive privilege is not absolute.

When no longer in office: Once a President leaves office, they are subject to legal actions just as any private citizen, losing any immunity they might have had. This principle was implicitly acknowledged in the reasoning of *Nixon* and *Clinton*, where the context of ongoing or potential future litigation against a former President was considered.

Support from Nixon and Clinton cases

Both Nixon and Clinton undermine claims of absolute presidential immunity. Nixon rejected presidential immunity in criminal proceedings, while Clinton allowed civil litigation against a sitting President for actions taken before taking office.

Influence of Misinformation

While misinformation did not directly influence the judicial outcomes of these cases, it poses a risk to public trust in judicial processes. Ensuring transparency and public understanding is vital to prevent misinformation from affecting legal precedents and public perceptions of judicial integrity.

State Provisions on Executive Privilege

Provisions vary, with some states allowing a degree of executive privilege similar to the federal model. Public opinion generally supports transparency and accountability, with variations based on local political culture.

Proposed Constitutional Amendments

A proposed amendment would explicitly define and limit the scope of executive privilege: "Executive privilege shall not exempt the President from compliance with judicial subpoenas but may be invoked to protect communications directly pertaining to national security, as assessed by a bipartisan congressional panel."

The amendment aims to balance executive confidentiality with accountability, addressing debates on presidential accountability and clarifying legal ambiguities surrounding executive privilege.

References

Trump v. Mazars USA, LLP. (2020). LII / Legal Information Institute.

<https://www.law.cornell.edu/supremecourt/text/19-715>

Trump v. Vance, District Attorney of the County of New York, et al. (2020). Findlaw.

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